

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS EASTERN DISTRICT

THE FAMILY ROSARY, INC.

Plaintiff,

-against-

Civil Action No.
CA No. 30277 DPW

BOWDOIN CONSTRUCTION CORP.;
ST. PAUL FIRE & MARINE INSURANCE COMPANY,

AFFIRMATION OF MICHAEL L. COSTELLO

I, Michael L. Costello, hereby affirm under penalties of perjury the following:

1. I am an attorney duly licensed and admitted to practice before all state and federal courts in New York State. I have been admitted pro hac vice by this Court on this claim representing the plaintiff.
2. I make this affirmation in support of a motion pursuant to FRCP 6(b)2 permitting the late service of plaintiff's opposition to defendants' motion for stay of action and application for order directing plaintiff to proceed to arbitration.
3. The defendants' motion papers were received by my office but were inadvertently misfiled.
4. Today, I discovered the motion papers and noticed that they were received on December 15, 2003 and placed in the wrong file. Upon discovering same, I immediately contacted defendants' counsel, Warren H. Brodie, Esq. I was informed by his office that he was not in today and no one was available to speak to me about this action.

5. Following my call to Mr. Brodie's office I telephoned the Court Clerk's office and spoke with Michele Rynne, docket clerk. I asked of Ms. Rynne whether the court had decided the stay application and was advised that the Court had yet to decide same.
6. Thereafter, I contacted my client and an opposition affidavit was prepared and accompanies this motion. (A signed electronic version is included with this motion and the hard copy will be forwarded tomorrow.)
7. A scheduling conference has been set by the court on this action for March 23, 2004 at 2:30 p.m.
8. Since the commencement of this action and the service of the stay application, defendants have filed a demand for arbitration with the American Arbitration Association.
9. I respectfully request and submit that the granting of this motion to allow the filing of the plaintiff's opposition affidavit will not prejudice any substantial right of the defendants in connection with their undecided stay application.
10. I respectfully request that the Court consider this application at the scheduling conference of March 23, 2004.

Dated: February 10, 2004



Michael L. Costello